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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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The Honorable G. William Whitehurst
House of Representatives

Dear Mr. Whitehurst:

In accordance with your April 19, 1973, request and subsequent discussions with your office, we reviewed the manner in which the Department of Housing and Urban Development (HUD) awarded an area management broker contract in the Norfolk-Virginia Beach, Virginia, area.

We made our review at HUD headquarters in Washington, D.C., and at HUD's area office in Richmond, Virginia. We reviewed HUD's policies and procedures for awarding management broker contracts, examined HUD's records, interviewed HUD's headquarters and field officials, and interviewed the unsuccessful bidder on the subject contract.

We orally presented your office with the results of our work on August 22, 1973. In accordance with your request of October 1 and discussion with your office on October 4, 1973, we have summarized the material covered during our oral presentation.

BACKGROUND

When borrowers default on federally insured home loans on residential properties, HUD often acquires title to such properties. The custody and management of acquired properties are assigned to management brokers who prepare repair specifications, solicit bids for repairs, prepare purchase orders, inspect the repairs, and manage the properties until they are sold. HUD area and insuring offices select management brokers by competitive bid procedures. The management brokers are paid a fee for each property they manage.

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The policies and procedures for contracting for management broker services are set forth in HUD's Property Disposition Handbook for One to Four Family Properties (HUD 4310.5). Specific instructions are outlined for use by local HUD offices for such matters as the (1) initial qualification of bidders, (2) conferences with bidders, (3) solicitation of bids, (4) award of contracts, and (5) notification to bidders.

Before HUD's solicitation of bids from interested parties, its local offices must conduct group interviews to formulate an accurate opinion of the brokers' qualifications as they relate to the scope, terms, and conditions of the proposed contract. The local office must also obtain a credit report on each broker under consideration and a management broker qualification data questionnaire from each broker. The questionnaire provides information needed to determine the adequacy of the brokers' qualifications.

Upon completion of the broker qualification interviews, the local HUD office must prepare a brief report on each broker setting forth its findings and recommendations. This report, with copies of the credit report and the qualification data questionnaire, must be reviewed and approved by the office director before a broker is placed on a list of approved bidders for the proposed contract.

An invitation to bid is to be issued generally to those brokers on the approved bidders list but is available to others upon request. HUD policy provides that the contract shall be awarded to the qualified bidder submitting the lowest bid.

GAO OBSERVATIONS ON AWARD OF CONTRACT

On October 1, 1972, HUD's Richmond area office awarded a 3-year contract to perform management broker services for the Norfolk-Virginia Beach area to Truitt Realty Corporation which bid \$19.50 per property per month. Eight properties were involved when the contract was awarded.

Mr. Frank E. Melchiorre, the only other bidder on the contract, had bid \$10 per property per month, but was rejected primarily because of HUD's concern that his firm (1) lacked the capability to perform the required management services and (2) may not have been readily accessible when needed to perform required services. Mr. Melchiorre contends that HUD did not properly investigate his qualifications and that his competence and reputation as a real estate broker have been compromised.

Although our review showed that HUD did not follow its normal procedures in awarding the management broker contract for the Norfolk-Virginia Beach area, we found no violation of Federal contracting laws and have no basis for questioning the award of the contract. Our review showed the following deviations from HUD's normal procedures.

- A list of approved bidders had not been developed by the Richmond area office before the solicitation of bids.
- At the completion of the broker qualification interview, broker qualification reports were not prepared by the area office.
- The area office officials involved in the contract award indicated they lacked familiarity with the applicable HUD contract requirements.
- Mr. Melchiorre's qualifications were not adequately investigated. Area office officials informed us that:
 1. His place of business was not visited before the contract award.
 2. Although his qualification data questionnaire was reviewed, an attachment to the questionnaire which included data regarding his prior management experience for resale properties was not considered.
 3. His personal references were not contacted.
 4. The number of persons he employed was not verified.
 5. A statement in the credit report on Mr. Melchiorre concerning the percentage of his business derived from the management and rental of residential properties was not considered.

Regarding Mr. Melchiorre's qualifications to perform the required services, HUD records show that it relied on the qualification data questionnaire which indicated that Mr. Melchiorre's experience was limited to the management of new properties for sale. HUD officials told us that they did not consider an attachment to this questionnaire in which Mr. Melchiorre cited his experience in managing homes which were to be resold and brought up to HUD or Veterans Administration standards before

resale. In addition, we noted that the credit report obtained by HUD on Mr. Melchiorre indicated that an estimated 50 percent of his business was derived from the management and rental of residential properties.

HUD records show that its review of his qualifications indicated that as of September 1972 Mr. Melchiorre had only one full-time employee in his firm, besides himself. Mr. Melchiorre told us, however, that at that time his staff consisted of four full-time employees, including himself and his wife. We noted that HUD permits management brokers to hire additional staff if necessary to properly administer a contract.

HUD officials told us that the subject contract was only the second management broker contract awarded by the Richmond area office. They said that, because of the large workload and the limited staff at the office, the staff was not as familiar with the applicable HUD contracting requirements as they should have been. The officials also said that, because of the small staff, they were precluded from thoroughly investigating the qualifications of prospective management brokers.

Regarding Mr. Melchiorre's accessibility, which HUD considers vital to the adequate performance of management broker services, HUD's records show that its determination that he might not have been accessible when needed was based on its inability to reach him by telephone on the date the bids were to be opened.

Mr. Melchiorre stated that someone was present in his business office throughout the day and that he received no calls from HUD. We were not able to verify either HUD's or Mr. Melchiorre's comments on this matter.

In addition to the procedural weaknesses, we noted two other areas where the Richmond area office should improve its administration of contracting for management broker services.

During the broker qualification interview, area office officials advised prospective bidders that they considered \$20 per property per month to be a reasonable bid for the contract. The successful bid was only \$0.50 per property per month less than this amount. We believe such statements to prospective bidders could influence the amount of their bids.

Also bidders were not advised of their right to file a bid protest action with HUD and GAO in the event they might question the award of the contract. Such notification is not required by HUD but would be desirable to insure equity for interested bidders.

With regard to the bidders' right to protest, GAO's Interim Bid Protest Procedures and Standards (4 CFR part 20) set forth the criteria under which an unsuccessful bidder on a Government contract may file a protest for GAO's consideration. Section 20.2(a) of these standards provides:

"Protestors are urged to seek resolution of their complaints initially with the contracting agency. Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of proposals shall be filed prior to bid opening or the closing date for receipt of proposals. In other cases, bid protests shall be filed not later than 5 days after the basis for protest is known or should have been known, whichever is earlier. If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 5 days of notification of adverse agency action will be considered provided the initial protest to the agency was made timely. The term 'filed' as used in this section means receipt in the contracting agency or in the General Accounting Office as the case may be and protestors are, therefore, cautioned that protests should be transmitted or delivered in that manner which will assure earliest receipt."

The intent of this time requirement is to secure prompt resolution of a contract dispute.

HUD formally advised Mr. Melchiorre on or about October 26, 1972, of the award of the contract to another bidder. HUD reiterated its position in subsequent letters to Mr. Melchiorre dated October 31 and December 19, 1972.

On June 26, 1973, we met with Mr. Melchiorre and inquired, in view of his dissatisfaction with HUD's explanation of the bases for rejecting his bid, what remedy he was seeking to resolve the problem. Mr. Melchiorre said that he believed HUD's

rejection of his bid was not based on a reasonable investigation of his qualifications. He expressed the belief that HUD's rejection, because of his alleged lack of qualifications, could be detrimental to his future business endeavors. He further stated he would like the option of having the contract awarded to him but, recognizing possible difficulties in dealing with HUD in view of the controversy generated by this matter, he indicated he might reject the award if it were made to him.

CONCLUSIONS

Although our review showed HUD did not follow its normal procedures in awarding the subject contract, we found no violation of Federal contracting laws.

Mr. Melchiorre initially sought resolution of his protest with HUD; however, his case was not submitted to GAO within the 5-day period for bid protests discussed above.

As indicated above, Mr. Melchiorre advised us that, although he would like to have the option of having the contract awarded to him, he might reject the award if it were made. In view of his expressed views on this matter and the extent of contract performance since October 1, 1972, we believe that it would be in the best interest of the Government for the contract award to remain undisturbed. HUD's non-acceptance of Mr. Melchiorre's bid should not be construed by him as reflecting adversely on his abilities or reputation nor discourage him from bidding on other Government contracts.

We believe, however, that the weaknesses relating to HUD's award of the contract discussed above indicate the need for the Richmond area office to improve its adherence to HUD's policies and procedures for the award of management broker contracts.

AGENCY COMMENTS AND CORRECTIVE ACTIONS

During our review we met with the regional administrator of HUD's Philadelphia regional office, who generally agreed with our observations on the procedural weaknesses relating to the award of the subject contract by the Richmond area office.

At that time we made suggestions for corrective action to the regional administrator. On the basis of our suggestions, he advised us that:

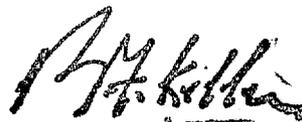
- Richmond area office officials had been briefed as to their responsibilities in the award of Government contracts.
- Similar briefings had also been held with other HUD field offices in the Philadelphia region.
- Contracting officers were being instructed to avoid volunteering information on what would be a reasonable bid. If asked, however, by prospective bidders, they might offer an explanation to provide a basis for preparing an adequate bid.
- Bidders on new HUD contracts were being advised of their right to file a protest action with HUD and GAO, in the event they might question the award of a contract, as provided in GAO's Interim Bid Protest Procedures and Standards.

We believe that these actions should prevent the recurrence of similar deficiencies noted during our review.

We trust that the information furnished will serve the purpose of your request, and we are closing our files on this case.

Sincerely yours,

Deputy



Comptroller General
of the United States